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IN THE MATTER OF THE GENERIC
PROCEEDINGS CONCERNING ELECTRIC
RESTRUCTURING

DOCKET NO. E-00000A-02-0051

IN THE MATTER OF ARIZONA PUBLIC
SERVICE COMPANY'S REQUEST FOR VARIANCE
OF CERTAIN REQUIREMENTS OF A.A.C. 4-14-2-
1606

DOCKET NO. E-01345A-01-0822

IN THE MATTER OF THE GENERIC PROCEEDING
CONCERNING THE ARIZONA INDEPENDENT
SCHEDULING ADMINISTRATOR

DOCKET NO. E-00000A-01-0630

IN THE MATTER OF TUCSON ELECTRIC POWER
COMPANY'S APPLICATION FOR A VARIANCE
OF CERTAIN ELECTRIC POWER COMPETITION
RULES COMPLIANCE DATES

DOCKET NO. E-01933A-98-0471

ISSUES IN THE MATTER OF TUCSON ELECTRIC
POWER COMPANY'S APPLICATION FOR A
VARIANCE OF CERTAIN ELECTRIC
COMPETITION RULES COMPLIANCE DATES.

DOCKET NO. E-01933A-02-0069

STATEMENT OF ISSUES BY ARIZONA PUBLIC SERVICE COMPANY
AND
PROPOSED SCHEDULE AND PROCESS FOR RESOLUTION OF SAME

Arizona Public Service Company ("APS" or "Company") hereby submits its list of proposed issues as well as a suggested procedure and timetable pertaining to what the Arizona Corporation Commission's ("Commission") Procedural Order of May 2, 2002 ("Procedural Order") describes as "Track B."

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“TRACK B” ISSUES

Issue No. 1 – What is the Role of the Commission or Commission Staff in Competitive Procurement?

A.A.C. R14-2-1606(B) [“Rule 1606(B)”] does not explicitly contemplate Commission or Staff involvement in the competitive procurement of power for Standard Offer customers by Utility Distribution Companies (“UDC’s”) post-divestiture. That being said, APS welcomes any Commission or Staff role that will further the Company’s goals relative to competitive procurement, namely to secure adequate, reliable and reasonably-priced power for its customers over the long term, and to eliminate to the greatest extent possible the contentious and time-consuming after-the-fact litigation that has threatened the financial health of other western UDCs. That is because there is a direct and inverse relationship between the role of the Commission in the procurement process before-the-fact and the ability of the Commission to reject the results of that process after-the-fact.

Issue No. 2 – How will the Cost of Procured Power be Recovered by the UDC?

The UDC must be able to collect through retail rates its cost of procuring power for Standard Offer customers. Yet this seemingly obvious, straightforward and easily solved issue has turned out to be one of the critical points of failure in both California and Nevada. It was a situation that harmed both the UDCs and the merchant sellers in the short run and will also adversely affect consumers in those states in the long run. In Arizona, the 1999 APS Settlement provides for the filing by APS of a recovery mechanism providing for “full and timely recovery” of purchased power costs on or before June 1, 2002, with Commission approval of it, or of a similar mechanism providing for “full and timely” recovery, by year’s end. Thus, at least to the extent that the Commission adheres to the relevant provisions of the 1999 APS Settlement, this issue can

1 be quickly resolved in these proceedings and need not consume much attention or
2 resources.

3 *Issue No. 3 – What is the Product to be Procured?*

4 A system's competitive power requirements might be divided into vertical slices or
5 horizontal blocks. It might be expressed in either MW or MWH. It might include or
6 exclude all or some ancillary services. It can be for greater or lesser reliability and for
7 greater or lesser periods of time. Obviously, the first and most important decision any
8 procurement process must make is identifying the product to be procured.

9 *Issue No. 4 – How Much and How Fast?*

10 Again, the present Rule 1606(B), as modified by the 1999 APS Settlement,
11 requires at least 50% of Standard Offer requirements post-divestiture to be competitively
12 bid by January 1, 2003. In its now stayed variance request, the Company sought to phase-
13 in a lesser amount over a period of years. Although there was little support among the
14 parties for the APS proposal, there was support from Staff and others for some variance to
15 Rule 1606(B) as currently written or at the very least, regulatory guidance as to its
16 practical application. Although the proceeding to consider the Company's variance
17 request has been stayed, the Commission will still have to face and resolve this issue of
18 how much and how fast. This, in turn, largely depends on the Commission's
19 determination of what the Procedural Order termed as "Track A" issues.

20 *Issue No. 5 – Who Can Participate?*

21 This would also appear to be a simple question to answer. After all why should not
22 everyone capable of providing the product being solicited, and who can meet reasonable
23 counter-party credit criteria, be allowed to participate? Yet some have suggested limiting
24 certain parties' participation, while one person's suggested counter-party credit criteria
25 may be deemed insufficient by another given the state of the market. In any event, unless
26 this decision is left to the reasonable business discretion of the individual UDC, as is

1 apparently the situation under present Rule 1606(B), it will have to be addressed in this
2 proceeding.

3 *Issue No. 6 – What will be the Procurement Mechanism?*

4 Competitive procurement can be undertaken using a number of differing formats,
5 including traditional requests for proposals (with or without some manner of subsequent
6 multilateral or bilateral negotiations), sealed bid auctions, or descending/ascending clock
7 auctions. Others have suggested that this proceeding also must consider the non-
8 competitively bid portion of Standard Offer requirements. APS agrees that the bilateral
9 piece of overall Standard Offer procurement, whether that be with an affiliate such as
10 Pinnacle West Capital Marketing & Trading or an unrelated third party, will affect the
11 likely participation in and outcome of the competitive procurement process and thus must
12 be in place at least concurrently with such competitive procurement.

13 **PROCESS AND PROCEDURE**

14 As noted in its Motion of April 19, 2002, and again at the Procedural Conference
15 of April 29, 2002, APS believes that competitive procurement issues cannot be resolved
16 independently of the issue of APS generation asset divestiture simply because it is the
17 latter that is both the legal and economic predicate of the former. Similarly, both
18 processes are presently required to take place concurrently by January 1, 2003. APS
19 cannot therefore wait until nearly the end of October for the Commission to either resolve
20 the above issues or entrust their resolution to the business judgment of APS. Thus, the
21 Company's timetable is based on the September 1, 2002 date specified in its Motion of
22 April 19th. If the Commission finds it cannot act sooner, APS would still ask that the
23 Commission seriously consider and adopt the Company's proposed procedure.

24 *Step One – Collaborative Process*

25 APS will meet with all affected parties, either individually or collectively, over the
26 next six weeks to determine if the Company and others can reach a consensus

1 recommendation to the Commission, even if that consensus is necessarily contingent upon
2 the results of "Track A." If successful, APS would present that consensus
3 recommendation to the Commission no later than August 1, 2002 for adoption by the
4 Commission and implementation by September 1, 2002.

5 *Step Two (if necessary) – APS Proposal and Comment Thereon*

6 If no consensus is reached by the end of June or if consensus can only be reached
7 on some but not all issues, APS will file with the Commission by July 1, 2002 a proposal
8 for competitive power procurement that adopts whatever consensus was reached by APS
9 and the other parties during the collaborative process, but which in the final analysis is the
10 Company's proposal to the Commission. Affected parties would have 15 days to
11 comment on the Company's proposal and APS would have 10 days to respond.¹

12 *Step Three – Recommended Decision*

13 The Chief Administrative Law Judge ("ALJ") would issue her recommended
14 decision by August 16, 2002 based on the filing and associated comments with Exceptions
15 thereto due by August 25, 2002.

16 *Step Four – Commission Decision*

17 Commission consideration of the Recommended Decision and any Exceptions
18 would follow as soon as is practical.

19 **CONCLUSION**

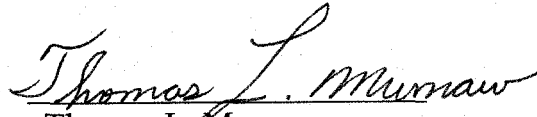
20 APS fully realizes it has set an aggressive "Track B" schedule. It is intended to
21 allow whatever competitive procurement process is eventually required to begin as
22 planned on January 1, 2003. APS additionally believes it has both identified the critical
23 issues facing the Commission concerning competitive procurement of Standard Offer
24 power and presented a process for fair and timely resolution of those issues in a manner

25 ¹ Although the timing may seem short, APS assumes that during the collaborative phase, all of the parties
26 will put their cards on the table and so neither the Company's filing nor the resulting comments should
come as much of a surprise to any involved.

consistent with the Commission's ruling of April 25, 2002. During the informal meetings called for next week pursuant to the Procedural Order, APS hopes to begin implementation of the above process, which it believes should be followed whether the end date for final decision by the Commission is September 1st or October 21st.

RESPECTFULLY SUBMITTED this 13th day of May 2002.

SNELL & WILMER L.L.P.



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Original and 18 copies of the foregoing filed this 13th day of May, 2002, with:

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All parties of record


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